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EXAMINER

GIBSON, ERIC M

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/018,184
Filing Date: March 15, 2002
Appellant(s): DUCKECK, RALF

Michael J. Striker
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/8/2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is deficient because it is not a concise statement of the invention defined in the claims as required by 37 C.F.R § 1.192 (c)(5). The applicant has substantially included the specification to the summary of the invention, including alternate embodiments that are not a part of the invention as defined in the claims.

The invention is a method and device for controlling the map scale using a control unit 20 of the navigation device 10, which sets the scale of a map shown on a display unit 50 of the navigation device 10. During the driving of the motor vehicle, depending on a current vehicle position as the vehicle position approaches a decision point, for example an intersection, at which according to the calculated driving route, a

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turn must be made from a road that is currently being driven, driving instructions are generated, which are announced to the vehicle driver optically by means of the display unit 50. The control unit 20 selects the largest possible scale provided for the map display with which the map can be shown on the display unit 50, containing both the current vehicle position 210 and the next decision point 215.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows:

Claims 12-14 are grouped by the appellant as standing or falling with the rejection of claim 10. Furthermore, the applicant does not separately argue the limitations of claims 12-14 as patentable over the applied prior art. Therefore, the only issue on appeal is whether claim 10 is anticipated by the applied reference.

(7) *Grouping of Claims*

The appellant's statement of the grouping of the claims is correct.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

6,151,552	Koizumi et al.	11-2000
4,675,676	Takanabe et al.	6-1987

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 10, 11 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Koizumi et al. (US006151552A).

As per claim 10, Koizumi teaches a method for controlling the scale of a map detail shown on a display unit of a navigation device, including setting the scale as a function of the distance of the current vehicle position from a next decision point located between the position and a destination (column 18, lines 12-14), setting the scale in such a way that the current position and next decision point are shown on the display (column 25, lines 55-57), and displaying the route in the largest possible scale for the display unit (column 18, lines 35-39).

As per claim 11, Koizumi teaches setting the scale such that a predetermined surrounding area can be shown on the display (column 23, lines 2-8).

As per claim 15, Koizumi teaches a navigation device including a display unit for showing a map detail (14, figure 1), a control unit for setting the scale of the map detail display (10, figure 1), wherein the control unit sets the scale of the map display as a function of the distance of a current vehicle position from a next decision point (column 18, lines 12-14), setting the scale in such a way that the current position and next decision point are shown on the display (column 25, lines 55-57), and displaying the route in the largest possible scale for the display unit (column 18, lines 35-39).

Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koizumi in view of Takanabe et al. (US004675676A).

As per claim 12, Koizumi teaches the invention as explained in the rejection of claim 10. Koizumi does not teach that the scale is inversely proportional to the distance. Takanabe teaches a method of controlling the scale of a map detail shown on a display unit of a navigation device including setting the scale of map detail displayed as a function of a distance from a decision point on a calculated driving route, wherein the scale is inversely proportional the distance (see table 1, column 14), in order to provide an increasingly larger scale as the vehicle approaches the point. It would have been obvious to one of ordinary skill in the art, at the time of invention, for the scale to be inversely proportional the distance in the system of Koizumi, in order to provide an increasingly larger scale as the vehicle approaches the point, as taught by Takanabe.

As per claim 13, Koizumi teaches the invention as explained in the rejection of claim 10. Koizumi does not teach that the scale is increased in preset stages as the vehicle approaches the point. Takanabe teaches a method of controlling the scale of a map detail shown on a display unit of a navigation device including setting the scale of map detail displayed as a function of a distance from a decision point on a calculated driving route, wherein the scale is increased in preset stages (see table 1, column 14), in order to provide an increasingly larger scale as the vehicle approaches the point. It would have been obvious to one of ordinary skill in the art, at the time of invention, for the scale to be increased in preset stages in the system of Koizumi, in order to provide an increasingly larger scale as the vehicle approaches the point, as taught by Takanabe.

As per claim 14, Koizumi teaches the invention as explained in the rejection of claim 10. Koizumi does not teach changing the scale when the current vehicle position has reached a decision point. Takanabe teaches a method of controlling the scale of a map detail shown on a display unit of a navigation device including setting the scale of map detail displayed as a function of a distance from a decision point on a calculated driving route, wherein the scale is changed when the current vehicle position has reached a decision point (column 15, lines 37-55), in order to show greater details as the vehicle approaches a destination. It would have been obvious to one of ordinary skill in the art, at the time of invention, for the scale to be changed when the current vehicle position has reached a decision point in the system of Koizumi, in order to show greater details as the vehicle approaches a destination, as taught by Takanabe.

(11) Response to Argument

Pages 15-17 of the appellant's argument provides a description of the invention and of the Koizumi reference.

In the first paragraph of page 18, the appellant asserts that "the vehicle location and the next decision point *must always be seen together* on the display" (emphasis added). The limitations of claim 10 do not support this argument. There is no recital in claim 10 that the vehicle location and the next decision point *must always be seen together* on the display. The pertinent part of claim 10 recites:

...setting the scale of the map detail displayed in such a way that both the current vehicle position and the next decision point located between the current vehicle position and a navigation destination are shown on the display... (lines 7-10).

Koizumi teaches this limitation as explained in the rejection of claim 10. As best illustrated by figure 8 in Koizumi, when vehicle guidance is in progress (S110) and the present position of the vehicle is within a predetermined distance of the decision point (S180), the system proceeds to enlarged intersection view display processing (S200). As disclosed in Koizumi at column 25, lines 55-57, during the enlarged view processing, a "mark expressing the present position of the vehicle and the guidance route" is displayed on the enlarged view of the decision point intersection.

Even assuming that the missing limitations from claim 10 are *implied* into the language of the claim, Koizumi still anticipates the claim. Claim 10 recites "setting the scale of the map detail as a function of the distance of a current vehicle position from a next decision point" in lines 3-4. As previously discussed, the invention of Koizumi shows that enlarged view processing is performed *whenever* the vehicle is within a predetermined distance from the decision point. Furthermore, if assuming that the vehicle location and the next decision point *must always be seen together* on the display, Koizumi teaches that the mark indicating the vehicle location is also indicated in the enlarged view processing as described at column 25, lines 55-57 together with the guidance route which includes the enlarged intersection.

In the second paragraph of page 18, the Examiner does not understand the appellant's argument. It appears that the appellant is stating that the Koizumi reference teaches that "when the intersection is represented in a format-filling manner, simultaneously also the vehicle position and the decision point are indicated." However,

this is the very limitation of claim 10 to which the section of Koizumi (column 25, lines 55-57) is applied.

In the third paragraph of page 18, the appellant makes arguments based on “a person skilled in the art” and a different “way of solving the problem”, that are not believed to be applicable to a rejection under 35 U.S.C. § 102.

In the paragraph beginning on the bottom of page 18 and continuing to page 19, the appellant once again states that claim 10 *always shows* the next decision point and the vehicle location. Again, this limitation is not found in the claim language and has already been addressed above. Refer to Koizumi, column 25, lines 55-57, where the intersection (decision point) and the vehicle location are shown together on the display during enlarged view processing.

In the last full paragraphs on page 19, the appellant admits that Koizumi deals with a solution of a similar problem, but asserts that the solution proposed “in the present patent application” is completely different. However, the Koizumi reference is only being applied to the invention as described in the *claims*, not the entire specification. In this regard, Koizumi fully anticipates the invention that is described in claim 10 as discussed previously. Obviousness is not at issue with a rejection under 35 U.S.C. § 102.

On page 20 of the Brief, the appellant cites *In re Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) for the proposition that “anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the

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claim.” The applicant then fails to point out which features of claim 10 are not disclosed in the Koizumi reference. The Examiner has particularly pointed out, with reference to column and line numbers, the location within the Koizumi reference of each and every element of the claimed invention in the rejection on the record.

To reiterate the rejection and the presence of each limitation, claim 10 is directed to a method with three steps. The first step is:

...setting the scale of the map detail displayed as a function of the distance of a current vehicle position from between the current vehicle position and a navigation destination that relates to a driving instruction, which has been issued or is to be issued based on a calculated driving route...(claim 10, lines 3-7).

This is disclosed in Koizumi at column 18, lines 12-14.

The second step is:

...setting the scale of the map detail displayed in such a way that both the current vehicle position and the next decision point located between the current vehicle position and a navigation destination are shown on the display...(claim 10, lines 7-10).

This is disclosed in Koizumi at column 25, lines 55-57.

The third step is:

...displaying the route between the current vehicle position and the next decision point located between the current vehicle position and a navigation destination in a scale that is the largest possible for the display unit...(claim 10, lines 10-13).

This is disclosed in Koizumi at column 18, lines 35-39.

Thus, the Examiner has shown with particularity the presence of each and every element of the claimed invention anticipated by the applied reference.

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Finally, on pages 20-21, the appellant makes arguments concerning the Takanabe reference. However, because claim 10 was rejected under 35 U.S.C. § 102 as anticipated by Koizumi, not as obvious in view of Takanabe under 35 U.S.C. § 103 the arguments are not relevant. Additionally, the appellant has already stated that the claims stand or fall with claim 10 and even within the arguments, the appellant is not advocating the patentability of the limitations of claims 12-14, but is rather arguing against a 35 U.S.C. § 103 rejection of claim 10, which does not exist anywhere in the record.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Eric M. Gibson
September 29, 2004

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